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Message Text

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42
ORIGIN EB-11

INFO OCT-01 EUR-25 IO-14 ISO-00 AGR-20 L-03 CEA-02 CIAE-00

COME-00 DODE-00 FRB-02 H-03 INR-10 INT-08 LAB-06

NSAE-00 NSC-10 PA-04 RSC-01 AID-20 CIEP-02 SS-20

STR-08 TAR-02 TRSE-00 USIA-15 PRS-01 SPC-03 OMB-01

DRC-01 /193 R

DRAFTED BY EB/OT/TA:WTADAMS:JMN
APPROVED BY EB/ITP - JCRENNER
EB/OT/TA - JWHOLMES
AGRIC - DWANAMAKER
AGRIC - RMCCONNEL
---------- 124011
R 141614Z NOV 73
FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA
INFO USMISSION GENEVA

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E.O. 11652: N/A
TAGS: ETRD, GATT, CA
SUBJECT: CANADIAN ACTION ON FRESH SWEET CHERRIES.

1. DEPUTY ASSISTANT SECRETARY RENNER AND REPRESENTATIVES OF USDA MET WITH GHERSON, CANADIAN ECONOMIC COUNSELOR, ON NOV. 12 TO DELIVER A NOTE CONCERNING THE CANADIAN SURCHARGE ON FRESH SWEET CHERRIES. (COPY BEING POUCHED) RENNER DISCUSSED SEVERAL POINTS CONTAINED IN THE NOTE IN RESPONSE TO INQUIRIES BY GHERSON.

2. IN INTRODUCTORY COMMENTS RENNER POINTED OUT THAT THE US REQUEST FOR CONSULTATION WAS BASED ON BOTH THE EXCHANGE OF LETTERS BETWEEN THE TWO GOVERNMENTS IN 1970 AND
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ARTICLE XIX OF THE GATT. THE NOTE FOCUSED ON THE ARGUMENT

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RAISED BY THE CANADIANS AT THE OCTOBER 16 CONSULTATION
THAT COMPENSATION UNDER GATT ARTICLE XIX DEPENDS ON
WHETHER OR NOT THEIR ACTION WAS "WARRANTED". THE NOTE
STATES THAT NOTHING IN THE LANGUAGE OF ARTICLE XIX SUGGESTS
THAT "AGREEMENT.WITH RESPECT TO THE ACTION" IS TO BE
LIMITED TO AGREEMENT AS TO WHETHER THE ACTION IS WARRANTED.
RENNER EMPHASIZED THAT THE PARTY ADVERSELY AFFECTED MAY
MAKE ITS AGREEMENT CONDITIONAL ON THE TAKING OF ACTIONS
TO MITIGATE OR COMPENSATE FOR THE INJURY INFLICTED ON ITS
TRADE AS A RESULT OF THE SUSPENSION OF THE OBLIGATIONS.

THE NOTE FURTHER RECITES THAT, UNLESS AGREEMENT HAS BEEN
REACHED BETWEEN THE PARTIES, THE PARTY ADVERSELY AFFECTED
MAY SUSPEND, ON A DISCRIMINATORY BASIS, TRADE CONCESSIONS
SUBSTANTIALLY EQUIVALENT IN VALUE TO THOSE SUSPENDED BY
THE PARTY TAKING THE ACTION, PROVIDING THE CONTRACTING
PARTIES DO NOT DISAPPROVE. THE NOTE CONCLUDES WITH A
REQUEST FOR PROMPT CONSIDERATION OF THE REQUEST FOR
COMPENSATION AND A STATEMENT THAT, IN THE ABSENCE THEREOF,
THE U.S. WILL BE FREE TO EXERCISE ITS RIGHTS UNDER ARTICLE
XIX:3(A).

3. RENNER EMPHASIZED THAT THE U.S. IS PUZZLED BY THE
CANADIAN LINE OF REASONING AND THAT ARTICLE XIX CONTAINS
NO QUALIFICATION DEPENDANT ON WHETHER ACTIONS ARE
WARRANTED. GHERSON ASKED IF OUR POSITION HAS A
JURIDICAL BASIS. RENNER REPLIED THAT TO HIS KNOWLEDGE

THE CANADIAN ARGUMENT HAS NEVER BEEN RAISED AS A DEFENSE
TO A REQUEST FOR ARTICLE XIX COMPENSATION. IN PARTICULAR,
IT WAS NOT RAISED BY THE CANADIAN GOVERNMENT IN THE SIMILAR
CASE CONCERNING STRAWBERRIES WHERE THE US REQUESTED AND
CANADA PAID COMPENSATION. RENNER ALSO MADE THE POINT NOT
CONTAINED IN THE NOTE THAT THE US CONSIDERS THAT THIS
CONSULTATION SHOULD BE CONDUCTED UNDER EXISTING RULES
AND NOT IN RELATION TO ANY MULTILATERAL SAFEGUARD
MECHANISM WHICH MAY EVENTUALLY BE AGREED UPON.

4. AT THE CONCLUSION OF THE MEETING THE PARTICIPANTS
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DISCUSSED THE CANADIAN BEEF SURCHARGE, WHICH IS REPORTED
IN SEPTEL. RUSH

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NNN

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Control Number: n/a
Copy: SINGLE
Draft Date: 14 NOV 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: garlanwa
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
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To: OTTAWA
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